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8 Attorneys for Plaintiff
9 NICHOLAS BART ELLIS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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1 Plaintiff Nicholas Bart Ellis and Defendants A. Navarro, F. Juarez and B. Gardner
2 (collectively, the "Parties")¹ hereby stipulate as follows:

3 **STIPULATION**

4 WHEREAS the parties conducted a settlement conference on August 22, 2012
5 before Hon. Laurel Beeler and agreed to settle the above-captioned action;

6 WHEREAS the parties' agreement to settle the action was conditioned upon, *inter*
7 *alia*, (1) the execution of a written release and settlement agreement, (2) the payment of a
8 settlement sum to Plaintiff, and (3) Plaintiff's dismissal of the action with prejudice after
9 his receipt of the settlement sum;

10 WHEREAS the parties have negotiated a written release and settlement agreement
11 and expect Plaintiff to be paid the settlement sum within six months of the execution of the
12 written release and settlement agreement, but no later than April 1, 2013;

13 WHEREAS the Court issued an Order of Conditional Dismissal on August 23,
14 2012, ordering that the action is dismissed with prejudice, provided that the parties may
15 move to reopen the case and the trial will be rescheduled if a motion is filed within 30 days
16 of the Order;

17 WHEREAS the parties agree that the action should be conditionally dismissed
18 pending Plaintiff's receipt of the settlement sum, pursuant to the written release and
19 settlement agreement, which is expected to occur in approximately six months, but no later
20 than April 1, 2013;

21 WHEREAS Plaintiff agrees to dismiss the action with prejudice within ten days of
22 his receipt of the settlement sum, expected to occur no later than April 1, 2013;

23 NOW, THEREFORE, the Parties, through their undersigned counsel, stipulate and
24 request that the Court order that the Conditional Dismissal Period be enlarged so that
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¹ On June 18, 2010, the Parties entered into a Stipulation and [Proposed] Order voluntarily
28 dismissing Defendant C.E. Wilber pursuant to Federal Rule of Civil Procedure
41(a)(1)(A). Dkt. 34.

1 Plaintiff may dismiss the action with prejudice within ten days of his receipt of the
2 settlement sum, which is expected to occur no later than April 1, 2013.

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4 Dated: September 19, 2012

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12 By _____ */s/ Wesley M. Spowhn*
13 Wesley M. Spowhn

14 Attorneys for Plaintiff NICHOLAS BART ELLIS

15 ANDRADA & ASSOCIATES
16 J. RANDALL ANDRADA
17 MATTHEW ROMAN
18 180 Grand Avenue, Suite 225
19 Oakland, CA 94612

20 By _____ */s/ Matthew Roman*
21 Matthew Roman

22 Attorneys for Defendants
23 SERGEANT A. NAVARRO;
24 CORRECTIONAL OFFICER F. JUAREZ
25 CORRECTIONAL OFFICER B. GARDNER; AND
26 APPEALS COORDINATOR C.E. WILBER

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DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

2 I, Wesley M. Spowhn, hereby declare pursuant to General Order 45, § X.B, that I
3 have obtained the concurrence in the filing of this document from the signatory listed
4 above.

5 I declare under penalty of perjury that the foregoing declaration is true and correct.

6 Executed on September 19, 2012, at San Francisco, California.

7 By /s/ Wesley M. Spowhn
Wesley M. Spowhn

Attorney for Plaintiff NICHOLAS BART ELLIS

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ORDER

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IT IS SO ORDERED.

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9/19/12

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Saundra B Armstrong

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The Hon. Saundra Brown Armstrong
United States District Judge

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